

Applicant: Seppo Nissilä  
Application Serial No. 10/735,255  
Filing Date: December 12, 2003  
Docket No.: 187-73 RCE  
Reply to Non-Final Office Action mailed December 14, 2005  
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### **REMARKS**

Pursuant to the non-final Office Action mailed December 14, 2005, which has been carefully considered, Applicant respectfully requests reconsideration. To further the prosecution of this application, each of the issues raised in the Office Action is addressed herein.

Claims 1-21 are currently pending in this application, of which Claims 1, 10, and 13-16 are independent claims. By this Amendment, Claims 10, 13-16, and 18 have been amended and Claim 11 has been cancelled, primarily to address objections and accept subject matter deemed allowable by the Examiner. The application as now presented is believed to be in allowable condition.

#### **A. Allowable Subject Matter**

Applicant notes with appreciation that at page 5 of the Office Action, Claims 1-9 were allowable and Claims 11 and 13-16 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Accordingly, while not acceding to the propriety of any claim rejections over prior art set forth in the Office Action, Applicant has rewritten Claims 10 and 13-16 to accept the subject matter deemed allowable by the Examiner, so as to expedite the prosecution of this application towards allowance.

For example, independent Claim 10 has been rewritten to incorporate the subject matter of dependent Claim 11, which was indicated as allowable, and Claim 11 was cancelled. In addition, Claims 13-16 were rewritten to incorporate the subject matter in Claim 10, which was indicated as allowable. Thus, Claims 10 and 13-16 are now in condition for allowance.

B. Claim Objections

Claims 10 and 16 were objected to due to informalities. Accordingly, Claims 10 and 16 have been amended in accordance with the Examiner's recommendations. Therefore, it is respectfully submitted that the objections to Claims 10 and 16 have been obviated.

C. Claim Rejection under 35 U.S.C. §112

Claim 18 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Specifically, the Office Action indicates that the "encoded music" recited in Claim 18 does not have a basis in either Claim 18 or Claim 10, and that it is unclear how a sound collage can be generated from music that is already part of the sound collage. The Office Action further states that it is unclear what structure in the specification corresponds to the means for generating from the encoded music a sound collage, as recited in Claim 18.

Accordingly, Claim 18 has been amended to further clarify the subject matter recited therein by reciting that the arrangement comprises means for storing the sound collage in a storing means. Support for this amendment is provided at paragraph 34 of the specification wherein functionality for coding music is disclosed as being possible to implement on an external computer, as well as at paragraph 14 of the specification where it is indicated that the sound collage or music can be stored on a computer hard disk. Therefore, it is respectfully requested that the rejection of Claim 18 under 35 U.S.C. §112, second paragraph, be reconsidered and withdrawn.

D. Claim Rejections under 35 U.S.C. §§ 102 and 103

Claims 10, 12, and 17-21 were rejected as being anticipated by or, in the alternative, obvious over U.S. Patent No. 5,267,942 to Saperston (*Saperston*). Specifically, the Office Action indicates that *Saperston* teaches an arrangement for coding heart rate information, which includes means for measuring a person's heartbeat interval and means for packing the

measured heartbeat interval information. Taking "three-section averages" is apparently interpreted as equivalent to packing in the Office Action. The Office Action further indicates that *Saperston* discloses means for coding at least a portion of the packed heartbeat interval information into a sound collage that is shorter in duration than the measurement time by contending that the measurement time is 12 minutes whereas the duration of the sound collage is only 9 minutes.

However, it is respectfully submitted that *Saperston* does not teach that the sound collage presented is, in fact, shorter in duration than the time spent for measuring the person's heart rate. Relevant portions of the specification indicate that:

1. subjects were "presented music at tempi approximately one beat below their ongoing heart rates";
2. the "ongoing tempi of the music were adjusted through the use of the Alesis MIDI recorder (AMR)"; and
3. the "PIT condition was described as music presented approximately one beat below ongoing HR"

at column 9, line 49 through column 10, line 22. Thus, it is submitted that *Saperston* discloses that the tempo of the music played to the subjects is continuously modified throughout the 9-minute treatment period, rather than being based on a heart rate measurement sample that is longer in duration than the treatment period.

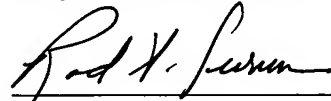
Further, it is submitted that these rejections are rendered moot by the amendments herein or the arguments submitted above with respect to Claims 10, 12, and 17-21. Therefore, it is respectfully requested that the rejection of Claims 10, 12, and 17-21 under 35 U.S.C. §103 be reconsidered and withdrawn.

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### CONCLUSION

In view of the foregoing amendments and remarks, entry of the amendments to Claims 10, 13-16, and 18; favorable reconsideration of Claims 10, 13-16, and 18, as amended; and allowance of pending Claims 1-10 and 12-21 are respectfully and earnestly solicited.

Respectfully submitted,



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